

The Applicants have provided Figures 3A and 6A, support for which may be found in original claim 42 as well as the figures as filed. Formal figures will be provided when allowable subject matter has been found. Applicants have rectified the Examiner's objection to the abstract through amendment.

With regard to rejections, Applicants respectfully traverse the Examiner's rejection of claims 44-48 under 35 U.S.C. § 112 to the extent that it is maintained. Applicants have now amended claim 44 to recite "blocks" instead of "block".

Applicants also traverse the Examiner's rejection of claims 35-49 under the judicially created doctrine of obviousness-type double patenting, to the extent that it is maintained.

Favorable reconsideration of all rejections pending herein is respectfully requested.

The Obviousness-Type Double Patenting Rejection

Applicants respectfully disagree with the Examiner's provisional rejection for obviousness-type double patenting of all claims pending in this application over copending 08/322,357 ("US'357) in view of Dawson U.S. Patent No. 2,149,957.

The US'357 block has legs which extend outward from the sides of the block. As recited, the legs of the block may be configured in any variety of angles in relationship to the side walls of the block itself. These legs may be used to provide openings which allow for the block to be filled with products

such as stone, gravel, rock and the like when the similar blocks are placed adjacent each other in the same course.

In sharp contrast, the claimed blocks of serial number 08/056,986 have legs with front faces which are angled towards the front of the block. This limitation is specifically recited in the claims. Further as can be seen in the specification of the '986 application, any force attempting to move the claim block forward, will have to also confront the resistance created by the forward angled black legs moved into adjacently positioned fill or, if the base course, the ground beneath the wall. (U.S. Patent Application, Serial No. 08/056,986 at page 16, lines 1-12).

The use of angled back legs also facilitates manufacture of the block of the invention.

Specifically, the angled back legs of the claimed invention allow for conveying of the blocks once formed and they are being transported to the curing facility. The proximity of the various blocks on the conveyor may lead to physical contact between blocks. As the contact occurs at a high speed, the blocks may be physically damaged. Also, the use of a conveyor which turns on curves in the course of transporting the blocks may naturally lead to contact between the blocks and damage. (U.S. Patent Application Serial Number 08/056,986 at page 16, lines 13-25.)

Accordingly, the claimed invention is not obvious or otherwise unpatentable based upon US'357.

In rejecting the pending claims, the Examiner has combined US'357 with Dawson, U.S. Patent No. 2,149,957. US'357 is not combinable with the Dawson patent. Dawson discloses a pinned system which US'357 specifically teaches against in pages 2 through 6 of the background.

The complexity of pinned systems can require rigid alignment, and laborious assembly. Increases in strength may also not be that great as pin-type anchoring mechanisms often rely on one strand or section of a support tether which, if broken, may completely compromise the structural integrity of the wall.

In contrast, Dawson teaches a cribbing system based on a complimentary sockets (32) and lugs to connect stretchers (20), headers (21), and spaced anchorage members (22). Dawson discusses the assembly of cribbing at page 2, left column, lines 12-38.

In contrast, the US'357 block fails to provide any disclosure on a pinned system or how such a system could be combined with the block disclosed therein. Rather, US'357 teaches against pinned systems. The placement, alignment, and overall relationship of the various elements of the Dawson cribbing system is clearly inconsistent with the teaching of US'357. Therefore, the two publications are not combinable.

Even if combinable, there is no teaching in either publication as to the manner in which they could be combined. US'357 teaches blocks which may be assembled to create a

structure merely through the aligned stacking of one course after another. Dawson teaches, as noted, a complimentary system of sockets and lugs which must be aligned in a regular pattern to form a structure of the necessary integrity. Dawson says nothing about using blocks other than those which are disclosed and US'357 teaches against the use of pins. No basis for the combination exists and even if such a basis existed, there is no apparent teaching which would enable the combination.

Favorable reconsideration is requested.

CONCLUSION

Applicants respectfully request favorable reconsideration of all claims pending herein.

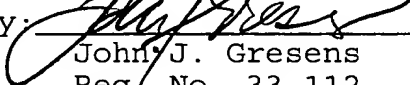
Respectfully submitted,

Michael E. Woolford

By his Representatives,

MERCHANT, GOULD, SMITH, EDELL,
WELTER & SCHMIDT, P.A.
3100 Norwest Center
90 South 7th Street
Minneapolis, Minnesota 55402
(612) 336-5265

Dated: 10/31/95

By: 
John J. Gresens
Reg. No. 33,112
JJG:dkm